

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1386 of 2014
Arising out of
Civil Writ Jurisdiction Case No. 1313 of 2013**

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Upendra Kumar Singh, Son of Sri Sajawal Singh, Resident of Village - Manikpur,
P.S. Gopalganj, District - Gopalganj, Working as Panchayat Teacher in
Government Primary Mahatab Gram Panchayat Raj Chhawanhi, Shekhpurdil,
Gopalganj

.... Petitioner / Appellant

Versus

1. The State of Bihar
2. The Commissioner - Cum - Secretary, H.R.D. Department, Govt. of Bihar, Patna
3. The District Education Officer, Gopalganj
4. The District Programme Officer, Gopalganj
5. The Mukhiya, Gram Panchayat Raj Devapur, Sheikhpurdil, P.S. Manjha, District - Gopalganj
6. The Panchayat Sachiv, Gram Panchayat Raj Chhawanhi Shekhpurdil, P.S. Manjha, District - Gopalganj
7. Sadashiv Pandey, Son of Sri Devbrat Pandey, Resident of Village - Turkahan Tola, P.S. and District - Gopalganj

.... Respondents / Respondents.

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Appearance:

For the Appellant/s : Mr. Rajendra Prasad Singh, Sr. Advocate. &
Mr. Rajeev Kumar Singh, Advocate.

For the State : Ms. Binita Singh, SC 28 and
Mr. Sidharth Sankar, AC to SC 28.

For the Respondents no.7: Mr. P.K.Sahi, Sr. Advocate and
Mr. Ranjeet Kumar Pandey, Advocate.

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 21-06-2017

The Writ Application of the appellant was dismissed by
the learned Single Judge on 15.07.2014 because it did not disagree
with the finding as well as the reason assigned by the District
Teachers Employment Appellate Authority who ordered removal of



the appellant from the post of Panchayat Teacher.

The Court heard the learned Senior Counsel representing the appellant, the Senior Counsel representing the private respondent no. 7 as well as the State.

Not only did this Court go through the order of the learned Single Judge where the narration indicates the manner in which the entire process of appointment has been manipulated and rigged with due connivance of the erstwhile Member of the District Teachers Employment Appellate Authority of Gopalganj. In fact, a reading of the order of the Tribunal, which is Annexure-9 to the Writ Application, reveals much more than what even the learned Single Judge has had to say with regard to the appointment.

Learned Senior Counsel for the appellant starts his argument on a very high note by submitting that the subsequent Member of the District Teachers Employment Appellate Authority had no business to comment upon the earlier order or direction issued by the Tribunal which facilitated the counseling and appointment of the appellant. Such uncharitable observations or remarks of the Tribunal subsequently were uncalled for and that by itself makes the order of the Tribunal vulnerable.

To verify the authenticity of such submissions and the stand taken by the appellant's counsel, the Court went through "the



previous order” passed by the Tribunal which, according to the learned Senior Counsel, allowed the present appellant to participate in the counseling and his subsequent appointment. The said so-called order of the Tribunal has been annexed as Annexure-4 to the Writ Application and is dated 06.04.2009.

This Court has had the privilege of hearing hundreds of cases relating to appointment on the post of Panchayat Teacher. The District Teachers Employment Appellate Authority is a *quasi* judicial authority. Therefore, there are certain norms which are required to be followed by such forums. We have not come across any order or adjudication of the kind which has been annexed as Annexure-4 which is supposed to be the basis for allowing the appellant to participate in the counseling which facilitated his appointment.

Annexure-4 to the Writ Application is not an order. There is no adjudication. It is a letter no. 1944 dated 06.04.09 addressed to the Mukhiya / Panchayat Secretary to allow the appellant to participate in the counseling as a Physically Handicapped candidate. In our opinion, therefore, the Tribunal while deciding the matter, which is Annexure-9 to the Writ Application, rightly commented upon the previous order / direction or letter of the Tribunal.

What makes it even more interesting is that there was not



even a formal application filed before the Tribunal. From a reading of Annexure-3, at Page 26 of the Writ Application, it is evident that a routine kind of application was addressed to the District Teachers Employment Appellate Authority where nothing had been said about the status of the appellant being physically handicapped. A simple innocuous prayer was made for a direction to allow him to participate in a counseling since he could not participate in the counseling earlier along with the private respondent no. 7. A reading of Annexures 3 & 4 together compels this Court to record that there seems to be some cozy relationship between the appellant and the Member of the District Teachers Employment Appellate Authority and it is more an in-house arrangement which facilitated participation of the appellant in the counseling, after the cut-off date so that he could be appointed on the basis of a Physically Handicapped certificate obtained after the cut-off date for such application and counseling.

A reading of the Tribunal's decision as well as the impugned order of the learned Single Judge reflects the murky way in which the appointment in the Panchayat had been made in due connivance with the authorities who are supposed to protect the rights and interest of citizens, by playing the game for with the appellant obvious reason.

In these circumstances if the learned Single Judge



refused to interfere with the order of the Tribunal, we are of the opinion that he has done so to upheld the law and restore the dignity of the Tribunal who subsequently put things in right perspective after due adjudication, which became the subject matter of challenge before the learned Single Judge.

The Court was inclined to direct institution of a criminal case against one and all and order their prosecution but since most of the players, who were at the helms of affairs at the relevant time, are not be available now since almost 8 to 9 years have gone past, the Court refrains from doing so.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Rajeev Ranjan Prasad, J)

Dilip, AR

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